

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
ROGER & SONS CONSTRUCTION, INC., ) CASE NO. 09-21594 JPK  
 ) Chapter 11  
Debtor. )

ORDER DENYING MOTION FOR RELIEF FROM AUTOMATIC  
STAY AND TO SET A DATE CERTAIN TO ASSUME OR  
REJECT SUBCONTRACT ("MOTION") WITHOUT PREJUDICE

The Motion was filed by Focus Construction, Inc. and by Focus Courthouse LLC on August 28, 2009. According to its terms, the Motion seeks relief by two entirely separate entities. The relief requested by the Motion is also two-fold: relief from the automatic stay presumably pursuant to 11 U.S.C. § 362(d)(1) – although no specific reference to that statute appears in the Motion – and secondly, the setting of a deadline pursuant to 11 U.S.C. § 365(d)(2). Two different entities may not join in one motion initiating a contested matter as movants. Fed.R.Bankr.P. 9014(c) does not incorporate Fed.R.Bankr.P. 7020/Fed.R.Civ.P. 20 – the procedural mechanism by which multiple “plaintiffs” are authorized to bring a single action. In addition, a motion initiating a contested matter is required by N.D.Ind.L.B.R. B-9013-1(a) to be limited to one discrete matter, except when the motion seeks a form of “alternative relief”. Moreover, N.D.Ind.L.B.R. B-9013-1(b) specifically precludes the joinder of any other prayer for relief with a motion seeking relief from the automatic stay, with the sole exception of a request for abandonment of property from a bankruptcy estate.

Because two separate entities each seek two different forms of relief in relation to the debtor, in order to comply with applicable rules it will be necessary that four motions be filed. As a result, it is impossible to provide for amendment of the Motion.

Based upon the foregoing, the court determines that the Motion should be denied.

IT IS ORDERED that the Motion is denied, without prejudice.

Dated at Hammond, Indiana on September 30, 2009.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:

Debtor, Attorney for Debtor, US Trustee, Attorney for Creditor